APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,320	08/31/2000	Mayur Maniar	5793.3031	3899

22852   7590   09/18/2008
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ART UNIT	PAPER NUMBER
3623	

MAIL DATE	DELIVERY MODE
09/18/2008	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES
_____

Ex parte MAYUR MANIAR, VIVEK PURI
KATE DAVID, and SHAWN MICHAEL BUDDE
_____

Appeal 2007-4032
Application 09/651,320
Technology Center 3600
_____

Decided: September 18, 2008
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Before MURRIEL E. CRAWFORD, DAVID B. WALKER, and JOSEPH
A. FISHETTI, *Administrative Patent Judges.*

WALKER, *Administrative Patent Judge.*

DECISION ON APPEAL

This is an appeal under 35 U.S.C. §§ 6(b) and 134(a) (2002) from the
final rejection of claims 1-39. We reverse.

Representative claim 1 reads as follows:

1. A method for providing a credit card product,
comprising:

        associating a financial account with an un-
activated credit card that is provided to an
applicant, wherein the associating is performed by
a computer system configured to communicate
with the applicant over a communication network;

        analyzing, by the computer system, a first
response to a first risk splitting question provided
to the applicant;

        generating, by the computer system, a
second risk splitting question based on the first
response for provision to the applicant, the second
risk splitting question being configured to elicit
additional information regarding subject matter
associated with the first response;

        determining, by the computer system, a
credit limit for the financial account based on the
first response and a second response by the
applicant to the second risk splitting question; and

        activating, by the computer system, the
credit card with the credit limit.

The references set forth below are relied upon as evidence in support
of the rejections:

| Buchanan | US 5,950,179 | Sep. 7, 1999 |
| Walker | US 6,088,686 | Jul. 11, 2000 |

Claims 1-39 stand rejected under 35 U.S.C. § 103(a) as unpatentable
over Buchanan in view of Walker.

In rejecting claims under 35 U.S.C. § 103(a), the examiner bears the
initial burden of establishing a prima facie case of obviousness. *In re
Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). *See also In re Piasecki*, 745
F.2d 1468, 1472 (Fed. Cir. 1984). Only if this initial burden is met does the
burden of coming forward with evidence or argument shift to the appellant.

Id. at 1445. *See also Piasecki*, 745 F.2d at 1472. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See Oetiker*, 977 F.2d at 1445; *Piasecki*, 745 F.2d at 1472.

Each of the claims on appeal has a limitation directed to "a second risk splitting question based on the first response for provision to the applicant, the second risk splitting question being configured to elicit additional information regarding subject matter associated with the first response." The Examiner concedes that "Buchanan does not explicitly disclose analyzing various responses to risk splitting questions (defined by applicant as factors affecting the financial status, burden or earning capacity such as income, car loan, checking account, monthly rent/mortgage payment)." (Answer 3). The Examiner, however, found that Walker teaches a comprehensive system and method for performing on-line credit reviews, assessing credit risks based on factors beyond credit rating and determining a credit limit for any financial product, including a bank card for new customers or current customers (Answer 3-4; citing Walker, col. 7, l. 57 – col. 9, l. 65, Figures 41-44 and associated text for a detailed step-by-step process). The Examiner concluded that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Buchanan to include other factors beyond the traditional credit rating such as the maximum debt burden taught in Walker, to determine a customized credit limit commensurate with the customer's actual spending power and capacity while at the same time minimizing the risk in extending a more accurate line of credit (Answer 4).

The Appellant argues that Walker does not disclose generating or selecting a second risk splitting question based on the response to a first risk splitting question as recited in each of the independent claims (Br. 17-18). According to the Appellants,

> [a]lthough *Walker et al.* performs on-line review, based on other "factors" as suggested by the Examiner, this process (i.e., using an applicant's debt burden to process an application), is not *prima facie* evidence to suggest generating or selecting a second risk splitting question based on a response to a first risk splitting question, as claimed.

(Br. 18). The Appellants further argue that a second risk splitting question as claimed is designed to elicit "'additional'" or "'detailed'" information "'regarding subject matter associated with the first risk splitting question,'" whereas the credit application used by Walker is "'static' in the sense that the questions posed to an applicant are not based on an applicant's response to a previous question" (Br. 18).

We agree with the Appellants. Walker teaches a user-friendly on-line computerized system that operates in real-time, thus streamlining the processing of applications for products and services offered by a financial institution (Walker, Abstract). The process of Walker is described as providing unique processing of a new or existing customer relationship into the credit decision request, which makes it possible to provide new or existing customers with an up-front approval (based on systematic evaluation of credit bureau history, credit score, debt burden, credit policies

and the customer's relationship with the financial institution), subject to required verifications (Walker, col. 6, ll. 7-15). Walker discloses that evaluation and transmission on average take only a matter of seconds and are available 7 days a week, which enables almost instantaneous—on the spot—response to the applicant's request for credit (Walker, col. 7, ll. 43-46). Walker does not, however, teach asking a second risk splitting question based on the response to a first risk splitting question. If the Applicant does not meet predetermined thresholds, the application is sent for manual back office review by an underwriter (Walker, col. 13, ll. 56-60). Walker appears to collect all of the applicant input at once and then process that data, along with data collected through other data bases, such as credit bureau and customer relationship databases. We find no teaching to tailor follow on questions based on answers to initial questions.

Because the above quoted limitation is present in each of the claims on appeal, the Examiner has failed to establish a prima facie case of obviousness of claims 1-39 over Buchanan in view of Walker.

The decision of the Examiner is reversed.

<u>REVERSED</u>

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